

Message Text

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ACTION NEA-10

INFO OCT-01 ISO-00 NEAE-00 PM-04 MC-02 ACDA-07 AID-05

IGA-02 OMB-01 TRSE-00 EB-07 /039 W

-----211523Z 128655 /43

P 211346Z JAN 77

FM AMEMBASSY TUNIS

TO DOD WASHDC

SECSTATE WASHDC PRIORITY 5550

C O N F I D E N T I A L TUNIS 0489

FROM AMBASSADOR FOR DOD/LT GEN FISH DC/DSAA/ISA AND
STATE FOR NEA DEP ASST SEC DAY

E.O. 11652: GDS

TAGS: MASS TS

SUBJECT: OFFICIAL TUNWSIAN GOVERNMENT COMPLAINT OVER FMS
CASE DA-TU-UAL

REF: CHUSLOT 131350Z JAN 77 (NOTAL)

1. SUMMARY: TUNISIAN DEPUTY MINISTER OF DEFENSE AHMED BENNOUR CALLED IN DCM AND CHUSLOT JANUARY 20 TO EXPRESS OFFICIAL CONSTERNATION OF GOT OVER 12 MONTHS DELAY IN DELIVERY AND 28 PERCENT PRICE INCREASE OF A CASH-IN-ADVANCE \$1.81 M FMS SALE OF AMMUNITION. BENNOUR'S PRIMARY CONCERN IS WHAT HE PERCEIVES AS A BREACH OF GOOD FAITH AS WELL AS A DE FACTO BREACH OF CONTRACT ON THE PART OF THE USG. IN A LARGER SENSE, THE GOT WILL QUESTION THE ABILITY OF THE USG TO LIVE UP TO ITS COMMITMENTS IN THE CHAPARRAL PURCHASE CONCLUDED LAST NOVEMBER. END SUMMARY.

2. THIS AMMUNITION SALES CASE WAS SIGNED BY THE GOT ON 7 JAN 76 FOR 18 LINE ITEMS OF AMMUNITION FROM U.S. ARMY STOCKS, 17 OF WHICH WERE TO BE DELIVERED IN THREE MONTHS AND ONE IN 12 MONTHS. TO DATE THE GOT HAS RECEIVED
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ONLY ONE ITEM (.45 CAL PISTOL AMMUNITION) AND WE UNDERSTAND ONE OTHER ITEM (7.62 MM RIFLE AMMUNITION) HAS ALSO BEEN SHIPPED. GOT HAS BEEN INFORMED OF AN INCREASE IN PRICE OF THE CASE TO \$1.5 M AND HAS REQUESTED A SUSPENSION OF DELIVERY, PENDING PRICE RESOLUTION.

3. BENNOUR'S MAIN THESIS (WHICH WE FIND HARD TO DENY)

IS THAT HAD THE AMMUNITION BEEN DELIVERED AS PROMISED
IN THE LETTER OF OFFER WITHIN THREE MONTHS, THERE
WOULD HAVE BEEN NO PRICE INCREASE. WE HAVE THOROUGHLY
EXPLAINED THE TERMS OF AGREEMENT ON FMS PURCHASES INCLUDING
SUCH ITEMS AS PRICE ESTIMATES ON THE LETTER OF OFFER;
10 PERCENT INCREASE CLAUSE; GOT'S RIGHT TO CANCEL THE
CASE; AND THE FACT THAT DOD IS PROHIBITED BY LAW FROM
EITHER PROFITING OR LOSING MONEY ON AN FMS SALES CASE.
BENNOUR UNDERSTANDS THE LEGAL ASPECTS OF THE FMS CONTRACTS.
HELFEELS, HOWEVER THAT THE USG SHOULD NEVER HAVE OFFERED
THE TUNISIANS A SALES CASE IF WE WERENOT ABLE TO LIVE
UP TO THE TERMS OF THE CONTRACT.

4. I RECOGNIZE THAT A \$300,000 COST OVERRIDE IS SMALL
BUSINESS COMPARED WITH THE MUCH LARGER AND MORE COMPLEX
CASES IN WHICH STATE AND DOD ARE INVOLVED DAILY. IN
TUNISIA, HOWEVER, \$300,000 IS A LARGE SUM ESPECIALLY
WHEN UNBUDGETED, AND THIS CASE HAS NOW BECOME A SOURCE
OF EMBARRASSMENT TO THE UNITED STATES MILITARY, TO
THE UNITED STATES GOVERNMENT, AND TO MINISTER BENNOUR
PERSONALLY. IT WILL ALSO DAMAGE MINISTER BENNOUR'S IMAGE
WITHIN HIS OWN GOVERNMENT IF THE CASE IS BROUGHT TO THE
ATTENTION OF THE PRIME MINISTER (WHICH IT MUST BE TO
GET AN UNBUDGETED \$300,000).

5. AHMED BENNOUR HAS BEEN OF GREAT ASSISTANCE TO US
HERE OVER THE TEN YEARS I HAVE KNOWN HIM IN HIS PRESENT
AND PREVIOUS POSITIONS OF INFLUENCE. FOR US TO PUT
HIM IN A POSITION OF EXPLAINING TO HIS MINISTER AND
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HIS PRIME MINISTER THE UNANTICIPATED NEED FOR \$300,000
WILL PLACE HIM IN AN UNTENABLE POSITION. MOREOVER,
IF, AS IS HINTED, THE PRIME MINISTER IS SEIZED OF THE
MATTER AND CALS ME IN ON IT, I WILL BE PLACED IN THE
EOLIPAT#
BARRASSING POSITION OF DEMANDING \$300,000
MORE FROM TUNISIA FOR REASONS THAT I WOULD ALSO FIND
UNCONVINCING.

6. LEST THIS DISGRACEFUL SITUATION EVOLVE TO SUCH A
POINT AND BECOME WHAT WE DO NOT NOW HAVE --
A STICKLY POLITICAL ISSUE BETWEEN OURSELVES AND GOT --
I RESPECTFULLY PLEAD THAT DOD AND STATE GO BACK TO
THE REGULATIONS AND FIND THE NECESSARY LOOPHOLE TO TRIM
OUR INDEFENSIBLE FIGURE OF \$1.5 M DOWN TO SOMETHING
MORE REASONABLE. MANY THANKS FOR YOUR CONTINUED SUPPORT.
WE THINK WE AND OUR CLIENTS HERE ARE WORTH IT.
MULCAHY

NOTE BY OC/T: #AS RECEIVED.

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NNN

Message Attributes

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